

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT HARRINGTON, et al.,)	
)	
Plaintiffs)	Civil Action No.
v.)	04-12558-NMG
)	
DELTA AIR LINES, INC., et al.,)	
)	
Defendants.)	

DOMESTIC DEFENDANTS' MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)(6)

Defendants Delta Air Lines, Inc., American Airlines, Inc., Northwest Airlines, Inc., Alaska Airlines, Inc., Continental Airlines, Inc., Southwest Airlines Co., and Air Transport Association of America, Inc. ("ATA") (collectively the "Domestic Defendants"), by their attorneys, hereby move to dismiss the Plaintiffs' Complaint, Jury Claim and Request for Class Certification (the "Complaint") pursuant to Fed. R. Civ. P. 12(b)(6).

As grounds for their motion, the Domestic Defendants state that dismissal is proper because the Plaintiffs' claims are expressly preempted and barred by federal law and, as a matter of state law, the Plaintiffs have failed to state a claim as to each of the separate counts alleged in the Complaint.

WHEREFORE, the Domestic Defendants respectfully request that the Complaint be dismissed pursuant to Fed. R. Civ. P. 12(b)(6), and for such other and further relief as this Court deems just and proper.

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Continental Airlines, Inc., Southwest

Airlines Co., and Air Transport

Association of America, Inc.

LOCAL RULE 7.1(A)(2) CERTIFICATION

I certify that counsel for ATA attempted in good faith to resolve the issues presented in this Motion with counsel for the Plaintiffs but was unable to do so.

Matthew Porter

Matthew A. Porter

January 31, 2005